

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO: <u>22-</u>
v.	:	DATE FILED: <u>6 -16- 22</u>
FRANCIS J. BATTISTA	:	VIOLATIONS:
a/k/a Frank Battista	:	18 U.S.C. § 1343 (wire fraud – 12
	:	counts)
	:	18 U.S.C. § 641 (theft of public
	:	money - 10 counts)
	:	18 U.S.C. § 1028A(a)(1) (aggravated
	:	identity theft – 7 counts)
	:	18 U.S.C. § 1957 (money laundering -
	:	7 counts)
	:	18 U.S.C. § 2 (aiding and abetting)
	:	Notices of forfeiture

INDICTMENT

COUNTS ONE THROUGH TWELVE
(Wire Fraud)

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. Defendant FRANCIS J. BATTISTA was a resident of Aston, Pennsylvania, in Delaware County.

2. Lendio, Inc. (“Lendio”) was a company that specialized in facilitating small business lending. Lendio was headquartered in Lehi, Utah. Lendio participated in the Paycheck Protection Program (“PPP”) by, among other things, matching small businesses seeking PPP loans with authorized lenders. PPP loan applications could be submitted by an applicant through Lendio, which checked for completeness and then forwarded the application package to authorized lenders.

The authorized lenders and the Small Business Administration (“SBA”), not Lendio, decided whether to approve the PPP loan applications and, if approved, financed the PPP loans.

3. Kabbage, Inc. (“Kabbage”), was an online financial technology company based in Atlanta, Georgia. Kabbage participated in the PPP by, among other things, issuing PPP loans directly as an SBA-approved lender, as well as in partnership with other SBA-approved lenders, such as Customers Bank and Cross River Bank.

4. ReadyCap Lending, LLC (“ReadyCap Lending”) was a non-bank small business lender based in New York, New York. ReadyCap Lending participated in the PPP by, among other things, issuing PPP loans directly as an SBA-approved lender.

5. An IRS Preparer Tax Identification Number (“PTIN”) is a number issued by the IRS to a professional tax preparer. Professional tax preparers who accept payment to prepare tax returns must have a PTIN. PTINs may not be shared. Every individual who, for compensation, prepares or assists in the preparation of a tax return or claim for refund must have his or her own PTIN and each tax return preparer may only obtain one PTIN.

The Small Business Administration

6. The United States Small Business Administration (“SBA”) was an executive branch agency of the United States government that provided support to entrepreneurs and small businesses. The mission of the SBA was to maintain and strengthen the nation’s economy in a variety of ways, including by fostering the establishment and viability of small businesses and aiding in their economic recovery after community disasters.

7. As part of its efforts, the SBA provided for business loans through banks, credit unions, and other lenders. Those loans had government-backed guarantees.

The CARES Act, PPP, and EIDL Program

8. The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) was a federal law enacted in or about March 2020. The CARES Act provided emergency financial assistance to the millions of Americans suffering the economic effects of the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”). In April 2020, Congress authorized over \$300 billion in PPP funding. In December 2020, Congress authorized over \$280 billion in another round of PPP funding, which was available to businesses that had already obtained a PPP loan during 2020. These loans are referred to as “second draw” loans.

9. To obtain a PPP loan, a qualifying business had to submit a PPP loan application signed by an authorized representative of the business. The PPP loan application required the business, through its authorized representative, to acknowledge the program rules and to make affirmative certifications to be eligible for the PPP loan. For example, in the PPP loan application, the business, through its authorized representative, was required to state, among other things, its average monthly payroll expenses and number of employees. These figures were used to calculate the amount of money the small business was eligible to receive under the PPP. In addition, as part of the PPP loan application process, businesses had to provide documentation showing their payroll expenses and other information.

10. A PPP loan application was required to be processed by a participating lender. If a PPP loan application was approved, the participating lender funded the PPP loan using its own funds, which were 100% guaranteed by the SBA. In the course of processing the PPP loan, the

lender transmitted data from the loan application to the SBA, including information about the borrower, the total amount of the loan, and the identified number of employees.

11. Proceeds from a PPP loan were legally required to be used only for certain permissible expenses: payroll costs, interest on mortgages, rent, and utilities. Under the applicable PPP rules and guidance, the interest and principal on the PPP loan were eligible for forgiveness if the business spent the loan proceeds on permissible items within a designated period of time and used a certain portion of the loan toward payroll expenses.

12. In addition, the SBA administered the Economic Injury Disaster Loan (“EIDL”) program, which provided small businesses with working capital loans of up to \$2 million to help overcome temporary loss of revenue as a result of a declared disaster. The CARES Act provided new rules that made it easier for small businesses that were economically damaged by the coronavirus pandemic to apply for and quickly receive loans. Due to the large volume of applications, the SBA capped loans to small businesses at \$150,000. To apply, small businesses had to state, under penalty of perjury, that they were eligible and provide any information (including tax records) that the SBA determined to be necessary. Small businesses with less than 500 employees were eligible to receive EIDLs.

13. As detailed below, defendant FRANCIS J. BATTISTA defrauded and attempted to defraud the U.S. government through his numerous fraudulent PPP and EIDL applications.

The Scheme to Defraud

14. From in or about March 2020, through in or about June 2021, in Aston, Pennsylvania, in the Eastern District of Pennsylvania, and elsewhere, defendant

FRANCIS J. BATTISTA,
a/k/a Frank Battista,

knowingly and intentionally did devise and intend to devise a scheme and artifice to defraud the SBA, Kabbage, ReadyCap Lending, and other SBA-approved PPP lenders, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, that is, over approximately \$10 million in disaster-related funds.

15. The purpose of the scheme was for defendant FRANCIS J. BATTISTA to enrich himself and others by fraudulently obtaining EIDL and PPP loan proceeds using the names of numerous businesses, including: (a) by making false statements about the fact that the businesses were in operation as of February 15, 2020, the number of employees, the wages paid to employees, the payroll taxes paid by the businesses, the intended use of the PPP loan proceeds, the ownership of the businesses, the gross revenues of the businesses, the name of the individual applicant and applicant primary contact, (b) by signing applications without authority in names other than his own and providing the dates of birth, social security numbers, and copies of the identification documents of those other individuals without their knowledge or consent, (c) by listing as loan guarantors and owners of the applicant businesses the names, addresses, dates of birth, and social security numbers of individuals other than himself and from whom he did not have authority to use their information, and (d) by providing false documentation, such as fake tax documents, bank records, and payroll summaries, some of which contained the names and personal identifying information of other individuals used without their knowledge or consent. Once he fraudulently

obtained those EIDL and PPP loan proceeds, defendant BATTISTA caused the funds to be spent on unauthorized purchases and debts and laundered a significant portion of the funds through various financial accounts and purchases.

Manner and Means

It was part of the scheme that:

16. From on or about March 31, 2020 through on or about May 19, 2021, defendant FRANCIS J. BATTISTA submitted and caused to be submitted approximately 19 fraudulent EIDL and PPP loan applications, requesting a total of over \$10 million in fraudulent loan proceeds. Those loan applications were in the names of approximately 11 purported businesses.

Fraudulent EIDL and PPP Applications in the Name of Bustro Inc.

17. On or about March 31, 2020, defendant FRANCIS J. BATTISTA caused to be submitted a fraudulent EIDL application to the SBA in the name of Bustro Inc. which misrepresented and overstated the number of employees and the gross receipts of Bustro Inc., and listed as the receiving bank account a Branch Banking and Trust Company (BB&T) account ending in 6987, which was actually held in the name of Flight Hospitality LLC, not Bustro Inc., and was an account over which defendant BATTISTA had access and control.

18. On or about May 8, 2020, defendant FRANCIS J. BATTISTA caused to be submitted to Kabbage, a fraudulent PPP loan application in the name of Bustro Inc. and requesting a loan of \$1,114,069. The application misrepresented and overstated the number of employees and the average monthly payroll of Bustro Inc., misrepresented that Bustro Inc. “was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC,” listed a false business

address, and misrepresented the purpose of the loan. In support of this application, defendant BATTISTA caused to be submitted fake IRS forms and filings.

19. On or about May 12, 2020, as a result of the fraudulent loan application package that defendant FRANCIS J. BATTISTA caused to be submitted, Kabbage deposited PPP loan proceeds for Bustro Inc. in the amount of \$1,114,069 into a BB&T account ending in 6995, an account held in the name of Flight Hospitality LLC and over which defendant BATTISTA had access and control.

20. On or about January 19, 2021, in part so that he would have it available to use in support of his PPP fraud scheme, defendant FRANCIS J. BATTISTA renewed the Pennsylvania identification card of a deceased family friend, M.F., and submitted to the Pennsylvania Department of Transportation (“PennDOT”) a change of address for that individual, changing M.F.’s home address to defendant BATTISTA’s home address and causing the M.F. identification card to be mailed to defendant BATTISTA’s home.

21. On or about March 19, 2021, defendant FRANCIS J. BATTISTA caused to be submitted to Lendio and ReadyCap Lending a fraudulent PPP second draw loan application in the name of Bustro Inc. requesting a loan of \$1,507,292. The individual applicant and signor on the loan was falsely listed as M.F., an individual who had died approximately two months earlier, and electronic versions of M.F.’s initials and signature were forged on the application. The application misrepresented and overstated the number of employees and the average monthly payroll of Bustro Inc., misrepresented that Bustro Inc. “was in operation on February 15, 2020” and “had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC,” listed a false business address, and

misrepresented the purpose of the loan. In support of this application, defendant BATTISTA caused to be submitted a copy of the Pennsylvania identification card he fraudulently renewed in the name of M.F. and had caused to be mailed to his home; a fake bank statement purportedly showing that Bustro Inc. had an active business account as of March 2020 when in fact the statement was an altered version of a bank account statement for an account in the name of Flight Hospitality LLC; as well as fake IRS forms and filings, at least one of which included the name, title, address and PTIN of a real Certified Public Accountant whose initials are S.R., and another which used the name, title, address, signature, and PTIN of a real Certified Public Accountant whose initials are P.S., even though S.R. and P.S. had not completed the forms and did not give authorization for their names, titles, addresses, signatures, and PTINs to be used by defendant BATTISTA.

22. On or about June 3, 2021, as a result of the fraudulent second draw loan application package that defendant FRANCIS J. BATTISTA caused to be submitted, ReadyCap Lending deposited PPP loan proceeds for Bustro Inc. in the amount of \$1,507,292 into a BB&T account ending in 9629, an account held in the name of Cuisine 365 LLC and over which defendant BATTISTA had access and control.

23. On or about June 3, 2021, defendant FRANCIS J. BATTISTA caused \$750,000 of the fraudulently obtained PPP proceeds in the BB&T account ending in 9629 to be transferred to a BB&T account ending in 9637, another account held in the name of Cuisine 365 LLC and over which defendant BATTISTA had access and control.

Fraudulent PPP Applications in the Name of Cuisine 365 LLC

24. Cuisine 365 LLC was a business controlled by defendant FRANCIS J. BATTISTA which had filed for bankruptcy in 2018.

25. On or about March 25, 2021, defendant FRANCIS J. BATTISTA caused to be submitted to ReadyCap Lending a fraudulent PPP loan application in the name of Cuisine 365 LLC requesting a loan of \$977,885. The individual applicant, owner, and signor on the loan was falsely listed as R.B., a relative of defendant BATTISTA, and electronic versions of R.B.'s initials and signature were forged on the application. The application misrepresented and overstated the number of employees and the average monthly payroll of Cuisine 365 LLC, misrepresented that Cuisine 365 LLC "was in operation on February 15, 2020" and "had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC," listed a false business address, and misrepresented the purpose of the loan. In support of this application, defendant BATTISTA caused to be submitted a copy of R.B.'s Pennsylvania driver's license without R.B.'s authority, a fake bank statement which purportedly showed that Cuisine 365 LLC had an active business account going back to February 2020 when in fact the statement was an altered version of an account statement for Flight Hospitality LLC, as well as fake IRS forms and filings, at least one of which included the name, title, and address of a real Certified Public Accountant whose initials are S.R., as well as his individual PTIN, even though S.R. had not completed the form and did not give authorization for his name, title, address, and PTIN to be used by defendant BATTISTA..

26. On or about May 20, 2021, as a result of the fraudulent loan application package that defendant FRANCIS J. BATTISTA caused to be submitted, ReadyCap Lending deposited

PPP loan proceeds for Cuisine 365 LLC in the amount of \$977,885 into a BB&T account ending in 9610, an account over which defendant BATTISTA had access and control.

27. On or about May 28, 2021, defendant FRANCIS J. BATTISTA caused the majority of the fraudulently obtained Cuisine 365 LLC PPP loan proceeds in BB&T account 9610 to be transferred into four other BB&T accounts, all held in the name Cuisine 365 LLC. First, he caused \$74,900 to be transferred to a BB&T account ending in 9637. Second, he caused \$800,000 to be transferred to a BB&T account ending in 9645. Third, he caused \$30,000 to be transferred to a BB&T account ending in 6693. Finally, defendant BATTISTA caused \$25,000 to be transferred to a BB&T account ending in 9629. The BB&T accounts ending in 9637, 9645, 6693, and 9629 were all accounts over which defendant BATTISTA had access and control.

28. On or about May 19, 2021, defendant FRANCIS J. BATTISTA caused to be submitted to ReadyCap Lending a fraudulent PPP second draw loan application in the name of Cuisine 365 LLC requesting a loan of \$977,885. The individual applicant, owner, and signor on the loan was falsely listed as R.B., a relative of defendant BATTISTA, and electronic versions of R.B.'s initials and signature were forged on the application. The application misrepresented and overstated the number of employees and the average monthly payroll of Cuisine 365 LLC, misrepresented that Cuisine 365 LLC "was in operation on February 15, 2020" and "had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC," listed a false business address, and misrepresented the purpose of the loan. In support of this application, defendant BATTISTA caused to be submitted a copy of R.B.'s Pennsylvania driver's license without R.B.'s authority, and fake IRS forms and filings, at least one of which included the name, title, and address of a real Certified Public Accountant whose initials

are S.R., as well as his individual PTIN, even though S.R. had not completed the form and did not give authorization for his name, title, address, and PTIN to be used by defendant BATTISTA.

Fraudulent PPP Application in the Name of Cuisine 365 Mobile Inc.

29. On or about May 11, 2020, defendant FRANCIS J. BATTISTA caused to be submitted to Kabbage a fraudulent PPP loan application in the name of Cuisine 365 Mobile Inc. and requesting a loan of \$1,893,917. The application misrepresented and overstated the number of employees and the average monthly payroll of Cuisine 365 Mobile Inc., listed a false business address, and misrepresented the purpose of the loan. Defendant BATTISTA falsely certified on the application that Cuisine 365 Mobile Inc. “was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.” In support of this application, defendant BATTISTA caused to be submitted fake IRS forms and filings.

30. On or about May 12, 2020, as a result of the fraudulent loan application package that defendant FRANCIS J. BATTISTA caused to be submitted, Kabbage deposited PPP loan proceeds for Cuisine 365 Mobile Inc. in the amount of \$1,893,917 into defendant BATTISTA’s account ending in 4543 at TD Ameritrade. Defendant BATTISTA then used these fraudulently obtained proceeds to fund securities and investment trading activity that he conducted through TD Ameritrade.

31. On or about May 12, 2020, using the loan proceeds from his fraudulent PPP loan application for Cuisine 365 Mobile Inc., defendant FRANCIS J. BATTISTA caused an outgoing wire from his TD Ameritrade account ending in 4543 in the amount of approximately \$47,363.50

to be sent to an account at Fulton Bank, N.A., in the name of Brett Enterprises LLC, for the purchase of a V6 HST Limited Edition CPO Range Rover Sport 4WD.

32. On or about June 17, 2020, June 23, 2020, and July 22, 2020, using the loan proceeds from his fraudulent PPP loan application for Cuisine 365 Mobile Inc., defendant FRANCIS J. BATTISTA caused three outgoing wires from his TD Ameritrade account ending in 4543 in the amounts of approximately \$25,000, \$25,000, and \$10,000, respectively, to be sent to a BankUnited escrow account ending in 3375, in the name of Alliance Title Insurance Agency Inc., to purchase real estate on Casuarina Drive in Melbourne Beach, Florida, which on June 12, 2020, he had entered into a contract to buy for \$1.5 million cash, with no financing contingency.

Fraudulent EIDL and PPP Loan Applications in the Names of Other Businesses

33. On or about the dates listed below, defendant FRANCIS J. BATTISTA caused to be submitted other EIDL and PPP loan applications in the names of the following businesses which contained false and inflated information, and in support of which he caused false and fake documents to be submitted and used other people's names and identifying information without their authority:

¶	DATE	APPLICATION
a.	4/2/2020	EIDL application in the name of Cuisine 365 Sports Catering Inc.
b.	4/26/2020	PPP loan application in the name of Cuisine 365 Sports Catering Inc. for a loan of approximately \$179,196.78
c.	3/31/2020	EIDL application in the name of Flight Hospitality LLC
d.	4/14/2020	PPP loan application in the name of Flight Hospitality LLC for a loan of approximately \$343,600
e.	3/31/2020	EIDL application in the name of Flight Management LLC
f.	4/21/2020	PPP loan application in the name of Flight Management LLC for a loan of approximately \$241,971.46

¶	DATE	APPLICATION
g.	3/31/2020	EIDL application in the name of Francis Joseph Capital
h.	5/8/2020	PPP loan application in the name of Francis Joseph Capital Inc. for a loan of approximately \$1,113,791
i.	4/2/2020	EIDL application in the name of Nutritious Concepts Inc.
j.	5/1/2020	PPP loan application in the name of Nutritious Concepts Inc. for a loan of approximately \$1,206,392
k.	4/2/2020	EIDL application for Boiling Pot Old City
l.	4/2/2020	EIDL application for Crystal Clear Advisors
m.	5/11/2020	PPP loan application for Small Talk Media LLC for a loan of approximately \$66,862

34. On or about May 8, 2020, after over \$500,000 of proceeds from two of his fraudulent PPP loan applications were deposited into BB&T account ending in 6987, defendant FRANCIS J. BATTISTA caused a \$53,500 wire transfer out of that account to purchase a Lendio franchise. Defendant BATTISTA then used the Lendio franchise to: (a) process fraudulent PPP applications through Lendio so that, in addition to his receipt of the fraudulent loan proceeds, the franchise also earned a commission on the fraudulent loans, and (b) steal documents, names, and personal identifying information from other Lendio customers' loan application packages that he then altered and applied to fake documents that he used in support of his own fraudulent PPP applications.

35. On or about May 8, 2020, after over \$500,000 of proceeds from two of his fraudulent PPP loan applications were deposited into the BB&T account ending in 6987, defendant FRANCIS J. BATTISTA caused a \$35,000 wire transfer out of that account to a bank account in the name of The Victory Bank to settle an outstanding business debt for Cuisine 365 LLC.

36. From on or about November 1, 2020, to on or about November 6, 2020, after over \$500,000 of proceeds from two of his fraudulent PPP loan applications were deposited into a BB&T account ending in 6987, held in the name Flight Hospitality, LLC, defendant FRANCIS J. BATTISTA attempted to withdraw the loan proceeds by depositing five checks totaling approximately \$234,463 drawn on that account into his TD Ameritrade account. When those checks bounced because the BB&T account had been frozen, it triggered a fraud investigation by TD Ameritrade. During that investigation, in order to continue to leverage his fraudulent loan proceeds and convince TD Ameritrade to allow him to trade against the balance, he submitted to TD Ameritrade a fake and false letter, purportedly from BB&T, dated November 10, 2020, which stated, "This letter is to confirm that Flight Hospitality, LLC has a business checking account with BB&T in good standing. The account number for the above mentioned account is [...]6987 with a routing number of [. . .]. The account has a current and available balance of \$414,545.85. The account was opened on 04/02/2019. The individual with signing privileges on the account is [...]. These funds are now clear of any holds, liens or encumbrances." The letter was purportedly signed in the name of a person whose initials are W.C., who was a real BB&T employee, and the letter contained W.C.'s forged signature, which was included on the document without W.C.'s knowledge or authorization.

37. On or about each of the dates set forth below, in Aston, Pennsylvania, in the Eastern District of Pennsylvania and elsewhere, defendant

**FRANCIS J. BATTISTA,
a/k/a Frank Battista,**

having devised and intending to devise a scheme to defraud, and to obtain money and property by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing the scheme to defraud, knowingly caused to be transmitted by means of wire communication in interstate commerce, the writings, signs, signals, pictures, and sounds described below for each count, each transmission constituting a separate count:

COUNT	DATE	DESCRIPTION
1	5/8/2020	Online submission of the digitally signed Bustro Inc. PPP application for a \$1,114,069 loan
2	3/19/2021	Online submission of the digitally signed Bustro Inc. PPP second draw application for a \$1,507,292 loan
3	3/25/2021	Online submission of the digitally signed Cuisine 365 LLC PPP application for a \$977,885 loan
4	4/2/2021	Online submission of the digitally signed SBA Note/ Loan Contract for PPP loan to Cuisine 365 LLC in the amount of \$977,885
5	5/19/2021	Online submission of the digitally signed Cuisine 365 LLC PPP second draw application for a \$977,885 loan
6	5/11/2020	Online submission of the digitally signed Cuisine 365 Mobile Inc. PPP application for a \$1,893,917 loan
7	4/26/2020	Online submission of the digitally signed Cuisine 365 Sports Catering Inc. PPP application for a \$179,196.78 loan
8	4/14/2020	Online submission of the digitally signed Flight Hospitality LLC PPP application for a \$343,600 loan

COUNT	DATE	DESCRIPTION
9	4/21/2020	Online submission of the digitally signed Flight Management LLC PPP application for a \$241,971.46 loan
10	5/8/2020	Online submission of the digitally signed Francis Joseph Capital Inc. PPP application for a \$1,113,791 loan
11	5/1/2020	Online submission of the digitally signed Nutritious Concepts, Inc. PPP application for a \$1,206,392 loan
12	5/5/2020	Online submission of “payroll returns” in support of Small Talk Media LLC PPP application for a \$66,862 loan

All in violation of Title 18, United States Code, Section 1343.

COUNTS THIRTEEN THROUGH TWENTY-TWO
(Theft of Public Money)

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. Paragraphs 1 through 13 and 15 through 36 of Counts One through Twelve are realleged here.

2. In or around Aston, Pennsylvania, in the Eastern District of Pennsylvania and elsewhere, the defendant,

FRANCIS J. BATTISTA,
a/k/a Frank Battista,

did willfully and knowingly steal, purloin, and convert to his use and the use of another, any money and thing of value of the United States and any department and agency thereof, with an aggregate value that exceeded \$1,000, that is, the following amounts paid as a result of false and fraudulent EIDL and PPP applications he caused to be submitted, each amount constituting a separate count:

COUNT	DESCRIPTION
13	\$1,114,069 of fully guaranteed government-backed loan proceeds paid on or about 5/12/2020 to a BB&T account ending in 6995 as a result of a PPP application submitted in the name of Bustro Inc.
14	\$1,507,292 of fully guaranteed government-backed loan proceeds paid on or about 6/3/2021 to a BB&T account ending in 9629 as a result of a PPP second draw loan application submitted in the name of Bustro Inc.
15	\$977,885 of fully guaranteed government-backed loan proceeds paid on or about 5/20/2021 to a BB&T account ending in 9610 as a result of a PPP loan application submitted in the name of Cuisine 365 LLC

COUNT	DESCRIPTION
16	\$1,893,917 of fully guaranteed government-backed loan proceeds paid on or about 5/12/2020 to a TD Ameritrade account ending in 4543 as a result of a PPP loan application submitted in the name of Cuisine 365 Mobile Inc.
17	\$179,196.78 of fully guaranteed government-backed loan proceeds paid on or about 5/6/2020 to a BB&T account ending in 6987 as a result of a PPP loan application in the name of Cuisine 365 Sports Catering Inc.
18	A \$10,000 advance paid on or about 4/21/2020 to a BB&T account ending in 6995, as a result of an EIDL application submitted in the name of Flight Hospitality LLC
19	\$343,600 of fully guaranteed government-backed loan proceeds paid on or about 5/8/2020 to a BB&T account ending in 6987 as a result of a PPP loan application in the name of Flight Hospitality LLC
20	\$1,113,791 of fully guaranteed government-backed loan proceeds paid on or about 5/12/2020 to a BB&T account ending in 7949 as a result of a PPP loan application in the name of Francis Joseph Capital
21	\$1,206,392 of fully guaranteed government-backed loan proceeds paid on or about 5/4/2020 to a BB&T account ending in 6995 as a result of a PPP loan application in the name of Nutritious Concepts Inc.
22	\$66,862 of fully guaranteed government-backed loan proceeds paid on or about 5/13/2020 to a TD Bank account ending in 6140 as a result of a PPP loan application in the name of Small Talk Media LLC

All in violation of Title 18, United States Code, Section 641.

COUNTS TWENTY-THREE THROUGH TWENTY-NINE
(Aggravated Identity Theft)

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. Paragraphs 1 through 13 and 15 through 36 of Counts One through Twelve are realleged here.

2. On or about the dates listed below, in the Eastern District of Pennsylvania, and elsewhere, defendant

FRANCIS J. BATTISTA,
a/k/a Frank Battista,

knowingly and without lawful authority, possessed and used a means of identification of another person, that is, the items described below, during and in relation to wire fraud and theft of public money as charged in this indictment, each instance constituting a separate count.

COUNT	DATE	DESCRIPTION
23	3/19/2021	The name, initials, and signature of M.F., and the fraudulently renewed M.F. Pennsylvania identification card, and a photograph of the card, containing M.F.'s name, date of birth, signature, and Pennsylvania identification number, which were used on and in support of the PPP second draw loan application in the name of Bustro Inc. for a loan of \$1,507,292
24	3/19/2021	The name and PTIN of S.R., which were used on a fake IRS Form 1120-S corporate income tax return submitted in support of the PPP second draw loan application in the name of Bustro Inc. for a loan of \$1,507,292
25	3/19/2021	The name, PTIN, and signature of P.S., which were used on a fake IRS Form 941 submitted in support of the PPP second draw loan application in the name of Bustro Inc. for a loan of \$1,507,292

COUNT	DATE	DESCRIPTION
26	3/25/2021	The name and PTIN of S.R., which were used on a fake IRS Form 1120-S corporate income tax return submitted in support of the PPP loan application in the name of Cuisine 365 LLC for a loan of \$977,885
27	5/19/2021	The name and PTIN of S.R., which were used on a fake IRS Form 1120-S corporate income tax return submitted in support of the PPP second draw loan application in the name of Cuisine 365 LLC for a loan of \$977,885
28	4/26/2020	The name, initials, and signature of J.S., and photograph of J.S.'s Pennsylvania driver's license, containing his name, address, date of birth, signature, and driver's license number, which were used on and in support of the PPP loan application in the name of Cuisine 365 Sports Catering Inc. for a loan of \$179,196.78
29	4/14/2020	The name, initials, and signature of J.S., and photograph of J.S.'s Pennsylvania driver's license, containing his name, address, date of birth, signature, and driver's license number, which were used on and in support of the PPP loan application in the name of Flight Hospitality LLC for a loan of \$343,600

All in violation of Title 18, United States Code, Section 1028A(a)(1), (c)(1),

(c)(5).

COUNTS THIRTY THROUGH THIRTY-SIX
(Money Laundering)

THE GRAND JURY FURTHER CHARGES THAT:

At all times material to this indictment:

1. Paragraphs 1 through 13 and 15 through 36 of Counts One through Twelve are realleged here.

2. On or about the dates set forth below, in the Eastern District of Pennsylvania and elsewhere, defendant

FRANCIS J. BATTISTA,
a/k/a Frank Battista,

knowingly engaged in a monetary transaction, and aided and abetted a monetary transaction, affecting interstate commerce in criminally derived property of a value greater than \$10,000, described more fully below, and such property was derived from specified unlawful activity, that is, wire fraud, in violation of Title 18, United States Code, Section 1343, and theft of public money, in violation of Title 18, United States Code, Section 641, each transaction constituting a separate count:

COUNT	DATE	DESCRIPTION
30	5/8/2020	Outgoing wire of approximately \$53,500 from a BB&T account ending in 6987 to an account in the name of Lendio Franchising, LLC, in order to purchase a Lendio franchise
31	5/8/2020	Outgoing wire of approximately \$35,000 from a BB&T account ending in 6987 to a bank account ending in 1752 at Atlantic Community Bankers Bank to settle an outstanding business debt to The Victory Bank for Cuisine 365 LLC

COUNT	DATE	DESCRIPTION
32	5/13/2020	Outgoing wire of approximately \$47,363.50 from TD Ameritrade account ending in 4543 to an account at Fulton Bank, N.A., in the name of Brett Enterprises LLC, for the purchase of a V6 HST Limited Edition CPO Range Rover Sport 4WD
33	6/17/2020	Outgoing wire of approximately \$25,000 from TD Ameritrade account ending in 4543 to an escrow account at BankUnited ending in 3375, in the name of Alliance Title Insurance Agency Inc., for defendant FRANCIS J. BATTISTA's purchase of real estate on Casuarina Drive in Melbourne Beach, Florida
34	6/23/2020	Outgoing wire of approximately \$25,000 from TD Ameritrade account ending in 4543 to an escrow account at BankUnited ending in 3375, in the name of Alliance Title Insurance Agency Inc., for defendant FRANCIS J. BATTISTA's purchase of real estate on Casuarina Drive in Melbourne Beach, Florida
35	8/7/2020	Outgoing wire of approximately \$17,500 from TD Ameritrade account ending in 4543 to Workmerk LLC
36	9/1/2020	Outgoing Automated Clearing House ("ACH") transaction of approximately \$15,700 from TD Ameritrade account ending in 4543 to the Walden School, attended by defendant FRANCIS J. BATTISTA's minor children

All in violation of Title 18, United States Code, Sections 1957 and 2.

NOTICE OF FORFEITURE NO. ONE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Sections 1343 and 641, set forth in this indictment, defendant

**FRANCIS J. BATTISTA,
a/k/a Frank Battista,**

shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such violations, including, but not limited to, the sum of \$8,413,004.78, and:

- (a) \$2,292,606.57 seized on or about 11/5/2020 from BB&T account ending in 6995;
- (b) \$1,113,791.00 seized on or about 11/5/2020 from BB&T account ending in 7949;
- (c) \$405,452.28 seized on or about 11/5/2020 from BB&T account ending in 6987;
- (d) \$60,000.00 seized on or about 4/16/2021 from BankUnited account ending in 3375;
- (e) \$782,292.00 seized on or about 12/17/2021 from Truist Bank (formerly BB&T) account ending in 9629;
- (f) \$800,000.00 seized on or about 12/17/2021 from Truist Bank (formerly BB&T) account ending in 9645;
- (g) \$47,985.00 seized on or about 12/17/2021 from Truist Bank (formerly BB&T) account ending in 9610;
- (h) \$30,000.00 seized on or about 12/17/2021 from Truist Bank (formerly BB&T) account ending in 6693;
- (i) \$824,900.00 seized on or about 12/17/2021 from Truist Bank (formerly BB&T) account ending in 9637.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 981(a)(1)(C).

NOTICE OF FORFEITURE NO. TWO

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 1957, set forth in this indictment, defendant

**FRANCIS J. BATTISTA,
a/k/a Frank Battista,**

shall forfeit to the United States of America any property, real or personal, involved in such violations, and any property traceable to such property, including, but not limited to, the sum of \$219,063.50, and:

(a) \$50,000.00 seized on or about 4/16/2021 from BankUnited account ending in 3375.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b),


incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982.

A TRUE BILL:



GRAND JURY FOREPERSON



JENNIFER ARBITTIER WILLIAMS
UNITED STATES ATTORNEY

No. _____

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

Criminal Division

THE UNITED STATES OF AMERICA

FRANCIS J. BATTISTA, a/k/a "Frank Battista"

v.

INDICTMENT

Counts

- 18 U.S.C. § 1343 (wire fraud – 12 counts)**
 - 18 U.S.C. § 641 (theft of public money - 10 counts)**
 - 18 U.S.C. § 1028A(a)(1) (aggravated identity theft – 7 counts)**
 - 18 U.S.C. § 1957 (money laundering - 7 counts)**
 - 18 U.S.C. § 2 (aiding and abetting)**
- Notices of forfeiture**

A true bill



Filed in open court this _____ day,
Of _____ A.D. 20 _____

Clerk

Bail, \$ _____
